

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/661,011	09/12/2003	Michael A. Wisniewski	061151-9008-00	6806	
23409	7590 07/05/2005		EXAM	INER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE			RIDLEY, F	RIDLEY, RICHARD	
MILWAUKEE, WI 53202			ART UNIT .	PAPER NUMBER	
	•	•	3651		

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/661,011	WISNIEWSKI, MICHAEL A.				
Office Action Summary	Examiner	Art Unit				
	Richard Ridley	3651				
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with	the correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPL	Y IS SET TO EXPIRE 3 MOI	NTH(S) FROM				
THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a repl - If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	I36(a). In no event, however, may a repl ly within the statutory minimum of thirty (will apply and will expire SIX (6) MONTH a, cause the application to become ABAN	ly be timely filed 30) days will be considered timely. IS from the mailing date of this communication. IDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on <u>06 Jago</u>	<u>une 2005</u> .					
2a) ☐ This action is FINAL . 2b) ☑ This	This action is FINAL . 2b)⊠ This action is non-final.					
3) Since this application is in condition for allowa	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under E	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims		•				
4)⊠ Claim(s) 2-8,10 -30 is/are pending in the application	Claim(s) 2-8,10 -30 is/are pending in the application.					
4a) Of the above claim(s) is/are withdra	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.	Claim(s) is/are allowed.					
6)⊠ Claim(s) <u>2-8,10-20 and 24-30</u> is/are rejected.	Claim(s) <u>2-8,10-20 and 24-30</u> is/are rejected.					
	•					
8) Claim(s) are subject to restriction and/o	r election requirement.					
Application Papers	•					
9)☐ The specification is objected to by the Examine	∍r.					
0) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) ☐ The oath or declaration is objected to by the Ex	xaminer. Note the attached C	Office Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Burear	ts have been received. ts have been received in Appority documents have been re u (PCT Rule 17.2(a)).	olication No eceived in this National Stage				
* See the attached detailed Office action for a list	of the certified copies not re	eceived.				
Attachment(s)	•					
1) Notice of References Cited (PTO-892)		mmary (PTO-413)				
 Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 	, p	Mail Date brmal Patent Application (PTO-152) .				

fle

U.S. Patent and Trademark Office PTOL-326 (Rev. 1-04) Application/Control Number: 10/661,011

Art Unit: 3651

DETAILED ACTION

Claim Rejections - 35 USC § 112

- 1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
 - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 2. Claims 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Is the transfer mechanism of claim 19 additional to the transfer mechanism recited in claim 10, or are there two different transfer mechanisms? As written the claim is unclear.

Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claims 2, 3, 4, 5, 6, 7, 8, 10, 13, 18, 19, 20, 24, 25, 26, 27, 28, 29, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemaire et al. USP 4,852,745 in view of Leof USP 1,667,483.

Lemaire discloses a similar device comprising a(n):

> At least one transfer mechanism (11)

Application/Control Number: 10/661,011 Page 3

Art Unit: 3651

Conveyor (2)

Re clm 10, Lemaire does not disclose a first and second rotatable members.

Leof teaches the use of a first and second rotatable members (146, 148) for the purpose of providing for a means to facilitate the feeding of individual cups from a stack (page 8, lines 37-500.

It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a first and second rotatable members, as taught by Lemaire, in the device of Leof for the purpose of providing for means to facilitate the feeding of individual cups from a stack.

Re clm 26, loef discloses a shroud (fig. 3) for the purpose of providing for a means to house the rotatable members. It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a shroud, as taught by Leof, in the device of lemaire for the purpose of providing for a means to house the rotatable members.

5. Claims 14, 15, 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemaire et al. USP 4,852,745 in view of Leof USP 1,667,483.

Lemaire discloses all of the claim limitations, as above.

Re clm 14 & 15, to have employed the use of a gearbox in Lemaire would have been obvious to one have ordinary skill in the art as per the function of a gearbox which would allow and provide a means for controlling the rotation of the first and second rotatable members to a predetermined speed.

Re clms 16, 17, to have employed the use of two motors, instead of one, in Leof, would have beem obvious to one having ordinary skill in the art at the time of the invention since the applicant has not disclosed that the use of two motors instead of one is for any particular purpose or solves any particular problem and it would appear that the invention for perform equally well with the use of two motors.

6. Claims 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemaire et al. USP 4,852,745 in view of Leof USP 1,667,483 and further in view of Barnes USP 6623236.

Lemaire discloses all of the claim limitations, as above, but does not disclose at least one suction device coupled to the transfer mechanism.

Barnes teaches the use of at least one suction device coupled to a transfer mechanism for the purpose of facilitating the de-nesting of nested/stacked articles (at least abstract).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a suction device coupled to a transfer mechanism, as taught by Barnes, in the device of Leof for the purpose of facilitating the de-nesting of nested/stacked articles.

Allowable Subject Matter

7. Claims 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Application/Control Number: 10/661,011

Art Unit: 3651

Response to Arguments

Page 5

8. Applicant's arguments with respect to claims have been considered but are moot in view

of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

10. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Richard Ridley whose telephone number is (571) 272-6917. The

examiner can normally be reached on Mon-Fri 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard Ridley Primary Examiner Art Unit 3651

Richard Ridley

30 June 2005